

SECOND REGULAR SESSION
[P E R F E C T E D]
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 448
96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR RUPP.

Offered April 18, 2012.

Senate Substitute adopted, April 18, 2012.

Taken up for Perfection April 18, 2012. Bill declared Perfected and Ordered Printed.

TERRY L. SPIELER, Secretary.

4183S.04P

AN ACT

To repeal sections 210.211 and 210.245, RSMo, and to enact in lieu thereof three new sections relating to child care providers, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 210.211 and 210.245, RSMo, are repealed and three
2 new sections enacted in lieu thereof, to be known as sections 210.211, 210.245,
3 and 544.456, to read as follows:

210.211. 1. It shall be unlawful for any person to establish, maintain or
2 operate a child-care facility for children, or to advertise or hold himself or herself
3 out as being able to perform any of the services as defined in section 210.201,
4 without having in effect a written license granted by the department of health
5 and senior services; except that nothing in sections 210.203 to 210.245 shall apply
6 to:

7 (1) Any person who is caring for four or fewer children. For purposes of
8 this subdivision, children who are related by blood, marriage or adoption to such
9 person within the third degree shall not be considered in the total number of
10 children being cared for;

11 (2) Any person who has been duly appointed by a court of competent
12 jurisdiction the guardian of the person of the child or children, or the person who
13 has legal custody of the child or children;

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

14 (3) Any person who receives free of charge, and not as a business, for
15 periods not exceeding ninety consecutive days, as bona fide, occasional and
16 personal guests the child or children of personal friends of such person, and who
17 receives custody of no other unrelated child or children;

18 (4) Any graded boarding school, summer camp, hospital, sanitarium or
19 home which is conducted in good faith primarily to provide education, recreation,
20 medical treatment, or nursing or convalescent care for children;

21 (5) Any child-care facility maintained or operated under the exclusive
22 control of a religious organization. When a nonreligious organization, having as
23 its principal purpose the provision of child-care services, enters into an
24 arrangement with a religious organization for the maintenance or operation of a
25 child-care facility, the facility is not under the exclusive control of the religious
26 organization;

27 (6) Any residential facility or day program licensed by the department of
28 mental health pursuant to sections 630.705 to 630.760 which provides care,
29 treatment and habilitation exclusively to children who have a primary diagnosis
30 of mental disorder, mental illness, mental retardation or developmental disability,
31 as defined in section 630.005; and

32 (7) Any nursery school.

33 2. Notwithstanding the provisions of subsection 1 of this section, no
34 child-care facility shall be exempt from licensure if such facility receives any state
35 or federal funds for providing care for children, except for federal funds for those
36 programs which meet the requirements for participation in the Child and Adult
37 Care Food Program pursuant to 42 U.S.C. 1766. Grants to parents for child care
38 pursuant to sections 210.201 to 210.257 shall not be construed to be funds
39 received by a person or facility listed in subdivisions (1) and (5) of subsection 1
40 of this section.

41 **3. Any child care facility exempt from licensure shall disclose the**
42 **licensure exempt status of the facility to the parents or guardians of**
43 **children for which the facility provides care.**

210.245. 1. Any person who violates any provision of sections 210.201 to
2 210.245, or who for such person or for any other person makes materially false
3 statements in order to obtain a license or the renewal thereof pursuant to sections
4 210.201 to 210.245, [shall be] is guilty of an infraction for the first offense and
5 shall be assessed a fine not to exceed two hundred dollars and [shall be] is guilty
6 of a class A misdemeanor **and shall be assessed a fine of two hundred**

7 **dollars per day, not to exceed a total of ten thousand dollars** for
8 subsequent offenses. In case such guilty person is a corporation, association,
9 institution or society, the officers thereof who participate in such misdemeanor
10 shall be subject to the penalties provided by law.

11 2. If the department of health and senior services proposes to deny,
12 suspend, place on probation or revoke a license, the department of health and
13 senior services shall serve upon the applicant or licensee written notice of the
14 proposed action to be taken. The notice shall contain a statement of the type of
15 action proposed, the basis for it, the date the action will become effective, and a
16 statement that the applicant or licensee shall have thirty days to request in
17 writing a hearing before the administrative hearing commission and that such
18 request shall be made to the department of health and senior services. If no
19 written request for a hearing is received by the department of health and senior
20 services within thirty days of the delivery or mailing by certified mail of the
21 notice to the applicant or licensee, the proposed discipline shall take effect on the
22 thirty-first day after such delivery or mailing of the notice to the applicant or
23 licensee. If the applicant or licensee makes a written request for a hearing, the
24 department of health and senior services shall file a complaint with the
25 administrative hearing commission within ninety days of receipt of the request
26 for a hearing.

27 3. The department of health and senior services may issue letters of
28 censure or warning without formal notice or hearing. Additionally, the
29 department of health and senior services may place a licensee on probation
30 pursuant to chapter 621.

31 4. The department of health and senior services may suspend any license
32 simultaneously with the notice of the proposed action to be taken in subsection
33 2 of this section, if the department of health and senior services finds that there
34 is a threat of imminent bodily harm to the children in care.

35 The notice of suspension shall include the basis of the suspension and the appeal
36 rights of the licensee pursuant to this section. The licensee may appeal the
37 decision to suspend the license to the department of health and senior
38 services. The appeal shall be filed within ten days from the delivery or mailing
39 by certified mail of the notice of appeal. A hearing shall be conducted by the
40 department of health and senior services within ten days from the date the
41 appeal is filed. The suspension shall continue in effect until the conclusion of the
42 proceedings, including review thereof, unless sooner withdrawn by the

43 department of health and senior services, dissolved by a court of competent
44 jurisdiction or stayed by the administrative hearing commission. Any person
45 aggrieved by a final decision of the department made pursuant to this section
46 shall be entitled to judicial review in accordance with chapter 536.

47 5. In addition to initiating proceedings pursuant to subsection 1 of this
48 section, or in lieu thereof, the prosecuting attorney of the county where the
49 child-care facility is located may file suit for a preliminary and permanent order
50 overseeing or preventing the operation of a child-care facility for violating any
51 provision of sections 210.201 to 210.245. The order shall remain in force until
52 such a time as the court determines that the child-care facility is in substantial
53 compliance. If the prosecuting attorney refuses to act or fails to act after receipt
54 of notice from the department of health and senior services, the department of
55 health and senior services may request that the attorney general seek an
56 injunction of the operation of such child-care facility.

57 6. In cases of imminent bodily harm to children in the care of a child-care
58 facility, the department may file suit in the circuit court of the county in which
59 the child-care facility is located for injunctive relief, which may include removing
60 the children from the facility, overseeing the operation of the facility or closing
61 the facility.

**544.456. 1. This section shall be known and may be cited as "Sam
2 Pratt's Law".**

3 **2. In any case involving abuse, neglect, or death of a child, any**
4 **court with competent jurisdiction may impose as a condition of release**
5 **of a defendant under section 544.455 that such defendant be prohibited**
6 **from providing child care services for compensation pending final**
7 **disposition of the case.**

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